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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/744,784	01/26/2001	Hartmut Breuninger	1998CH017	5014

25255 7590 10/30/2003

CLARIANT CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
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EXAMINER

ELHILO, EISA B

ART UNIT	PAPER NUMBER
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1751

DATE MAILED: 10/30/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/744,784

Applicant(s)

BREUNINGER ET AL.

Examiner

Eisa B Elhilo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10/2/2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 12-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 12-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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DETAILED ACTION

1 A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after allowance or after an Office action under *Ex Parte Quayle*, 25 USPQ 74, 453 O.G. 213 (Comm'r Pat. 1935). Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, prosecution in this application has been reopened pursuant to 37 CFR 1.114.

Applicant's submission filed on October 02, 2003 has been entered.

Claim Rejections - 35 USC § 103

2 The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 12-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kayane et al. (US 4,548,612) in view of Yatake (US 5,560,770).

Kayane (US, 612) teaches an aqueous reactive dye composition comprising a halo-triazine compounds of the formula (2) having a β -sulfatoethylsulfonyl and chloro substituent groups as claimed in claims 12, 23-24 and 27-29 (see col. 7, formula (2)). The dyeing composition comprises 5 part (percentage) of the dye compound which presented in a percentage amount within the claimed ranges as claimed in claim 15, urea as claimed in claims 13 and 14, thickener as claimed in claim 19 and 38% of water (see col. 17, example 15) and has a pH in the range of 4.5 to 6.5 which falls within the claimed range as claimed in claim 30 (see col. 3, lines 32-33). As regards to claim 20, it would have been obvious to one having ordinary skill in the art

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at the time of the invention to make such a composition because Kayane teaches dyeing composition comprising similar dyeing ingredients in the claimed amount wherein the composition has a pH value that falls within the claimed range and therefore, the composition should have similar concentration to those claimed. With regards to claims 17-18, 21-22 and 25, Kayant teaches a method for dyeing or printing fiber materials, wherein the method comprises steps similar to those claimed such as contacting the fiber materials with the dye composition as described above (see col. 2, lines 9-12). Kayane further, teaches a process for the production of a dyeing composition (printing paste) wherein the composition may be prepared in a conventional manner using the thickener as claimed component (F) along with the conventional printing assistants such as urea as claimed in claim 16 (see col. 5, lines 1-5).

The instant claims differ from the reference by reciting an aqueous reactive-dye composition comprising a biuret component. The reference also silent about the viscosity of dyeing composition as claimed in claim 26.

However, the primary reference teaches a dyeing composition comprising urea component as a printing assistant (see col. 5, lines 2-4).

Yatake (US' 770) teaches in analogous art an ink composition comprising urea and/or urea derivatives such as biurea, biuret or tetramethylurea in the amount of 2 to 20% by weight which is overlapped with the claimed ranges for improve print density and prevent clogging of ink delivery ports (see col. 3, lines 44-55).

Therefore, in view of the teaching of the secondary reference one having ordinary skill in the art would be motivated to modify the primary reference of Kayane by incorporating the biuret component as taught by Yatake to make such a composition with a reasonable expectation

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of success. Such modification would be obvious because the primary reference clearly teaches and suggests the use of urea component in the dyeing composition as a conventional printing assistant (see col. 5, lines 3-5) and Yatake (US' 770) as a secondary reference teaches clearly that the urea derivatives are used in the dyeing composition for improve print density and prevent clogging of ink delivery ports (printing assistant) (see col. 3, line 44-50), and thus, a person of the ordinary skill in the art would be motivated to use urea or any of the urea derivatives including biuret because they are taught equivalent by Yatake (see col. 3, lines 44-50) and would be expected to have similar properties to those claimed, absent unexpected results.

With respect to claim 26, it would have been obvious to one having ordinary skill in the art at the time of the invention to make a dyeing composition having viscosity similar to those claimed because the primary reference teaches an aqueous dyeing composition comprising dyeing ingredients in the claimed amount which are similar to the claimed dyeing ingredients and, thus, would be expected to have similar properties including viscosity.

Response to Applicant's Arguments

3 Applicant's arguments filed 10/2/2003 have been fully considered but they are not persuasive.

With respect to the rejection based upon Kayane (US' 612) in view of Yatake (US' 770), Applicant argues that Kayane describe the production of a dry dye composition that does not comprise urea and there is no description or suggestion of any liquid reactive dye composition as claimed. The applicant also argues that there is no motivation to combine the teachings of the references.

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The examiner respectfully, disagrees with the above arguments because Kayane (US' 612) as primary reference teaches an aqueous dyeing composition (see col.12, Example 8, lines 67-68). The primary reference also teaches that the aqueous dyeing composition is obtained by dissolving the dyeing ingredients including urea in water (see cols. 17 and 18, Examples 16-20) and Yatake as a secondary reference teaches the equivalence between urea and biurea in an aqueous dyeing composition (see col. 3, lines 44-50), and, therefore, there is a motivation to combine the teachings of the references by substituting the urea component in the aqueous composition of Kayane with the biurea component in the aqueous composition of Katake to make the claimed composition. Therefore, the prima facie case of obviousness has been established.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eisa B Elhilo whose telephone number is (703) 305-0217. The examiner can normally be reached on M - F (7:30-5:00) with alternate Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on (703) 308-0661. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.



Eisa Elhilo
Patent Examiner
Art Unit 1751

October 29, 2003.